

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES

Plaintiff,

v.

AT&T SERVICES INC., AT&T MOBILITY
LLC, and AT&T CORP.

Defendant,

NOKIA OF AMERICA CORPORATION,
ERICSSON INC.

Intervenors.

Case No. 2:23-cv-00202-JRG-RSP
(Lead Case)

JURY TRIAL DEMANDED

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES,

Plaintiff,

v.

VERIZON COMMUNICATIONS, INC. and
CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS.

Defendants,

NOKIA OF AMERICA CORPORATION,
ERICSSON INC.

Intervenors.

Case No. 2:23-cv-00203-JRG-RSP
(Member Case)

JURY TRIAL DEMANDED

XR COMMUNICATIONS, LLC, dba
VIVATO TECHNOLOGIES,

Plaintiff,

v.

T-MOBILE USA, INC.

Defendant,

NOKIA OF AMERICA CORPORATION,
ERICSSON INC.

Intervenors.

Case No. 2:23-cv-00204-JRG-RSP
(Member Case)

JURY TRIAL DEMANDED

**DECLARATION OF MARC FENSTER IN SUPPORT OF PLAINTIFF XR
COMMUNICATIONS, LLC'S OPENING CLAIM CONSTRUCTION BRIEF**

1. I, Marc Fenster, declare as follows.

2. I am counsel for Plaintiff XR Communications, LLC, dba Vivato Technologies (“Vivato”) in the above-captioned action. I provide this declaration in support of Vivato’s Opening Claim Construction Brief. I have personal knowledge of the facts set forth herein, and if called upon to testify, could and would testify competently thereto.

3. Attached as Exhibit 1 is a true and correct copy of U.S. Patent No. 7,177,369.

4. Attached as Exhibit 2 is a true and correct copy of U.S. Patent No. 8,289,939.

5. Attached as Exhibit 3 is a true and correct copy of U.S. Patent No. 8,737,511.

6. Attached as Exhibit 4 is a true and correct copy of U.S. Patent No. 10,715,235.

7. Attached as Exhibit 5 is a true and correct copy of the Order Adopting Special Master’s Report and Recommendations Regarding Claim Construction in *XR Communications LLC v. D-Link Systems, Inc. et al.*, Case No. 8:17-cv-596-DOC (C.D. Cal.), dated April 18, 2022 (D.I. 312, adopting D.I. 280).

8. Attached as Exhibit 6 is a true and correct copy of the Special Master Report and Recommendation on Claim Construction in *XR Communications LLC v. D-Link Systems, Inc. et al.*, Case No. 8:17-cv-596-DOC (C.D. Cal.), dated January 27, 2022 (D.I. 280 and D.I. 280-1).

9. Attached as Exhibit 7 is a true and correct copy of the Claim Construction Order in *XR Communications LLC v. Cisco Systems, Inc. et al., Samsung Electronics Co. Ltd. et al., Microsoft Corporation*, Case Nos. 6:21-cv-623, 6:21-cv-626, 6:21-cv-695 (W.D. Tex.), dated September 30, 2022.

10. Attached as Exhibit 8 is a true and correct copy of the Petition for *Inter Partes* Review of U.S. Patent No. 7,177,369 in Case No. IPR2024-00314, dated January 5, 2024.

11. Attached as Exhibit 9 is a true and correct copy of the Petitioners’ Response to

Patent Owner's Preliminary Response in Case No. IPR2024-00314, dated May 8, 2024.

12. Attached as Exhibit 10 is a true and correct copy of Exhibit 2001 in IPR2024-00314.

13. Attached as Exhibit 11 is a true and correct copy of the Petition for *Inter Partes* Review of U.S. Patent No. 8,289,939 in Case No. IPR2022-00958, dated May 4, 2024.

14. Attached as Exhibit 12 is a true and correct copy of the Decision Denying Institution of *Inter Partes* Review in Case No. IPR2024-00314, dated July 15, 2024.

15. Attached as Exhibit 13 is a true and correct copy of excerpts of D.I. 256-5 filed November 30, 2021 in *XR Communications LLC v. D-Link Systems, Inc.*, Case No. 8:17-cv-596-DOC (C.D. Cal).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 15, 2024 at Los Angeles, California.

By: /s/ Marc Fenster
Marc Fenster